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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,923	11/01/2001	Adeyinka Adedeji	08CN06028-2	3495

23413 7590 06/25/2003
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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 06/25/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/682,923	ADEDEJI ET AL.
	Examiner Jeffrey C. Mullis	Art Unit 1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 April 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 and 13-36 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-11, 13-16 and 19-36 is/are rejected.
- 7) Claim(s) 17 and 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7,10 | 6) <input type="checkbox"/> Other |

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All previous rejections have been withdrawn.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13-16 and 19-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Yoshio, JP 06-57008.

Yoshio discloses a composition containing all of applicants' components and concentrations except in that patentee's Examples do not disclose the presence of applicants' specific high styrene hydrogenated block copolymer. Note Example 1 in paragraph 27 of the electronic translation in this regard. However note paragraphs 25 and 26 containing an example of a production of a hydrogenated SBS block copolymer containing 50% styrene for use in patentee's invention. Note the Patent Abstracts of Japan Abstract which disclose that component "C" may be a vinylic aromatic compound conjugated dienic compound copolymer such as styrene-butadiene "and/or the hydrogenated product of the

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obvious to a practitioner having ordinary skill in the art at the time of the invention to add the hydrogenated block copolymer of the Example in paragraphs 25 and 26 of patentees to the working Examples of patentees since patentees specifically disclose that a combination of hydrogenated or non-hydrogenated block copolymer may be used including the hydrogenated styrene butadiene styrene block copolymer containing 50% styrene and in the expectation of adequate results absent any showing of surprising or unexpected results.

It is noted that applicants' specification discloses pairs of examples and comparative Examples in which either a hydrogenated or non-hydrogenated block copolymer are present in comparison with Examples which a combination of non-hydrogenated and hydrogenated block copolymer is present. However the comparative Examples in such cases have less total block copolymer than the Examples. In such cases it can hardly be said that it would be unexpected that improved impact strength would result since more block copolymer (containing rubbery domains) is present. Proper comparative data would require proof that the same amount of total block copolymer is superior to either the composition containing only unhydrogenated block copolymer or a composition containing only hydrogenated block copolymer.

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and paragraph 26 where films are produced and paragraph 40 where ethylene propylene rubber is disclosed to be a useful additive. Choice of such embodiments would therefore have been obvious to a practitioner having ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of surprising or unexpected results.

Claims 1-11, 13-16 and 19-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hall (USP 6,509,412).

Note Hall's "Example" in column 8 where all of applicants' components are disclosed to be present in a single composition except in that the SEBS utilized contains only 33% styrene. However note column 3 lines 33-39 which discloses that the block copolymer may contain as much as 70% styrene. Therefore it would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to use block copolymers having 70% styrene in Hall's Example absent any showing of surprising or unexpected results.

Note column 8 lines 5-18 for various uses such as the automotive field as coating materials. Formation of such articles would have therefore been obvious to a practitioner having ordinary skill in the art at the time of the invention in the expectation of adequate results absent any showing of

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The terminal disclaimer filed on 1-13-03 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 09/682,921 has been reviewed and is accepted. The terminal disclaimer has been recorded.

The terminal disclaimer filed on 1-13-03 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 09/682,926 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

This Office action is not being made FINAL.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Mullis whose telephone number is (703) 308-2820. The examiner can normally be reached on Monday-Friday from 9:30 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck, can be reached on (703) 308-2462. The fax phone number for this Group

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2351.

J. Mullis:cdc

June 23, 2003

John Mullis
Primary Examiner
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